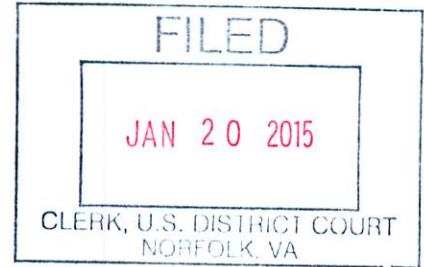


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



JOSEPH H. SPARKS, III,

Petitioner,

v.

HAROLD W. CLARKE, Director,
Virginia Dep't of Corrections,

Respondent.

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ACTION NO. 2:14cv440

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254 filed by counsel for Petitioner Joseph H. Sparks, III. The petition alleges violation of federal rights pertaining to Petitioner's convictions for aggravated sexual battery, taking indecent liberties, forcible sodomy and object sexual penetration on December 10, 2009, in the Circuit Court of Norfolk. As a result of the convictions, Petitioner was sentenced to serve 115 years in prison with 109 suspended, leaving an active total time to serve of sixteen years.

The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Report and Recommendation filed December 12, 2014, recommends dismissal of the petition. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On December 29, 2014, the Court received Petitioner's Objections to the Report and Recommendation. The Respondent filed no response to the objections and the time for responding has now expired.

The Court, having reviewed the record and examined the objections filed by the Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, adopts and approves the findings and recommendations set forth in the Report and Recommendation filed December 12, 2014. It is, therefore, ORDERED that Respondent's Motion to Dismiss be GRANTED and the Petitioner's petition be DENIED and DISMISSED with prejudice.

Petitioner is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such Judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 123 S. Ct. 1029, 1039 (2003).

The Clerk shall provide a copy of this Final Order to all counsel of record.

Arenda L. Wright Allen
United States District Judge

Norfolk, Virginia

January 20th, 2015